IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

CRL.A.No. 792 of 2000()

CC.171/2000 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHENGANNUR

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APPELLANT: COMPLAINANT:

LEELAVATHY, VATTAYATHIL VAIDYASALAYIL,
PERINGALA, MULAKUZHA, CHENGANNUR.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: STATE & ACCUSED:

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1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. SASIDHARAN, NEDIYOOZHATHIL KIZHAKKETHIL,
THITTAMEL MURI, CHENGANNUR TALUK.

BY ADV. SRI.R.PADMAKUMAR
BY PUBLIC PROSECUTOR SRI.MUHAMMED PUZHAKKARA.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 792 OF 2000

Dated this the 28th February, 2007.

J U D G M E N T

A complaint was preferred by the appellant before the Judicial First Class Magistrate Court-I, Chengannur, against the second respondent, the accused, which was numbered as C.C.No.171/2000 of that court. When the matter was taken up on the appointed date, neither the complainant, appellant, nor his counsel was present before the court below. Therefore, the learned Magistrate dismissed the complaint, and acquitted the accused. Hence, this appeal after obtaining leave of this Court.

2. The grounds advanced by the learned counsel appearing for the appellant before this Court is that the date of posting before the court below was noted wrongly by the advocate of the court below, and, therefore, there was no appearance by either the complainant, or his counsel. An affidavit to this effect has been filed by one N.N.Namboothiri, the Advocate, who was appearing for the appellant, before the court below.

3. After hearing the matter, I am of the view that an opportunity be given to the parties to raise their contentions before the court below.

4. Hence, I set aside the impugned order, dated 8.11.2000, and restore C.C.No.171/2000, to the file of the Judicial First Class Magistrate Court-I, Chengannur.

5. The parties shall appear before the court below on 28.3.2007.

6. The learned Magistrate shall dispose of the case, within three months from the date of appearance of the parties before that Court.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.

J.M. JAMES, J.

Criminal Appeal No. 792 of 2000

J U D G M E N T

Dated: 28th February, 2007.